

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Martin Pough,)	
)	C.A. No.: 4:04-22712-MBS
Plaintiff,)	
)	
vs.)	OPINION AND ORDER
)	
Dr. Willie Bamberg, Chief Horace)	
James, and Officer Bartley, in their)	
individual and official capacities as)	
OCRDC employees,)	
)	
Defendants.)	
)	

Plaintiff Martin Pough brings this action pursuant to 42 U.S.C. § 1983, alleging that Defendants Willie Bamberg, Horace James, and Sandra Bartley failed to protect him from an assault by another inmate at the Orangeburg-Calhoun Regional Detention Center.

On June 20, 2005, Defendants filed a motion for summary judgment. By order filed June 21, 2005, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff failed to respond to Defendants' motion.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. The Magistrate Judge filed a Report and Recommendation on August 8, 2005 in which he recommended that the complaint be dismissed pursuant to Rule 41(b), FRCP for failure to prosecute. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this

court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1). In the absence of objections to the Report and Recommendation, the court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein. Accordingly, the within action is dismissed pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

September 7, 2005

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.